

ORIGINAL

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FEB - 8 2006

RONALD A. LONGTIN, JR., CLERK

By: *[Signature]*  
DEPUTY

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA  
IN AND FOR THE COUNTY OF WASHOE

ETREPPID TECHNOLOGIES, L.L.C., a Nevada  
Limited Liability Company,

Plaintiff,

vs.

Case No. CV06-00114

DENNIS MONTGOMERY, an individual; THE  
MONTGOMERY FAMILY TRUST; DENNIS  
MONTGOMERY and BRENDA  
MONTGOMERY, as trustee for THE  
MONTGOMERY FAMILY TRUST; and DOES  
1 through 20,

Dept. No. 9

Defendants.

ORDER

This matter proceeded to a preliminary injunction hearing before this Court on February 7, 2006 on the issue of Defendant Montgomery's alleged destruction and/or possession of computer software source code (hereinafter "Source Code"), allegedly belonging to Plaintiff ETreppid Technologies. The Court has reviewed the entire file, the pleadings, points and authorities, and exhibits filed therein. In addition, the Court has considered the oral arguments of counsel, and although the preliminary injunction hearing ultimately concluded before counsel had the opportunity to finish the examination of one witness, the Court believes it has more than adequate information upon which to decide the issues before it. The hearing was scheduled for one day. It began at 9:00 a.m. and concluded at 9:30 p.m. Further examination of the final witness called to testify is

unnecessary. See, e.g., *Zupanic v. Sierra Vista Rec., Inc.*, 625 P.2d 1177, 1180 (Nev. 1981).

Accordingly, the Court makes its Decision as set out below.<sup>1</sup>

A preliminary injunction is available if an applicant can show a likelihood of success on the merits and a reasonable probability that the non-moving party's conduct, if allowed to continue, will cause irreparable harm for which compensatory damages is an inadequate remedy. *Dangberg-Holdings Nevada, L.L.C. v. Douglas County*, 115 Nev. 129 (1999).

First, the Court finds, pursuant to the employment agreement between the parties, the subsequent undisputed conduct of the parties throughout the course of Montgomery's employment with ETreppid, and Montgomery's acquiescence to and active participation in contractual agreements entered into by ETreppid with third-parties involving the Source Code and technology at issue, Plaintiff is likely to prevail on the merits of his claims. See, *Brooks v. Bates*, 781 F.Supp. 202, 205-206 (S. DNY 1991) (rights may be acquired "by operation of law," such as in an employer-employee relationship).

Second, the Court finds Plaintiff has demonstrated a reasonable probability that he will suffer irreparable harm if a preliminary injunction does not issue. The record reflects the Source Code is essential to the day-to-day business operations of ETreppid, as evidenced by the testimony of Dr. Sun. Furthermore, the technology at issue, including data compression software, image detection software, and pattern recognition software, which necessarily relies upon the Source Code for its operation, is alleged to be valued in excess of \$100,000,000. Without access to the Source Code, ETreppid may be forced to forego entering into valuable contracts for the use or sale of said technology. Lastly, the testimony indicates that Plaintiff may suffer damages in excess of \$10,000 per day (ten-thousand) if he remains without possession of the Source Code. This is not to say that Defendant may or may not have a substantial counterclaim.

For the foregoing reasons, the Court concludes that a preliminary injunction is warranted in the present context. Accordingly, pursuant to the requirements of NRCP 65, Plaintiff is ordered to

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<sup>1</sup> The Court notes that Defendant gave notice approximately ten (10) hours into the hearing that it would be seeking federal preemption of the issues at bar under the Copyright Act of 1976. While Defendant's position may indeed have merit, the Court declines to address the issue of preemption, deferring such a determination for decision based upon application to the proper Court. As such, this Court's Order solely addresses the merits of the preliminary injunction issue at hand.

1 post a bond in the amount of \$50,000 (fifty-thousand) to secure payment of such costs and damages  
2 as may be incurred by Defendant if found to have been wrongfully enjoined or restrained. See,  
3 *Amer. Bonding Co. v. Roggen Enterprises*, 584 P.2d 868, 870 (Nev. 1993). Good cause appearing,  
4 Plaintiff's *Motion for Preliminary Injunction* against Dennis Montgomery and the Montgomery  
5 Family Trust is GRANTED.

6 Until the conclusion of a trial on the merits or other Order, Montgomery and all persons or  
7 entities in active concert or participation therewith, are enjoined and restrained from destroying,  
8 hypothecating, transferring, modifying, and/or assigning the ETreppid Source Code, from discussing  
9 any ETreppid technology, including anomaly detection and pattern recognition software, with any  
10 third-party, except experts and other persons and witnesses necessary to Defendant's case and  
11 counsel, provided, however that such witnesses and counsel shall not disclose any information to  
12 others about ETreppid Source Code.

13 The Court issues this injunction to maintain the status quo and to avert any irreparable harm  
14 that ETreppid may suffer and based on the risk that Mr. Montgomery could delete and/or transfer the  
15 last version of the ETreppid Source Code that remains intact.

16 DATED this 8th day of February, 2006.

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19 DISTRICT JUDGE  
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CERTIFICATE OF MAILING

Pursuant to NRCP 5(b), I certify that I am an employee of the Second Judicial District Court of the State of Nevada, County of Washoe; that on this 8<sup>th</sup> day of February, 2006, I deposited in the County mailing system for postage and mailing with the United States Postal Service in Reno, Nevada, and faxed, a true copy of the attached document addressed to:

J. Stephen Peek, Esq.  
5441 Kietzke Lane, Second Floor  
Reno, NV 89511  
Fax No.: (775) 786-6179

David A. Jakopin, Esq.  
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Ronald J. Logar, Esq.  
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225 S. Arlington Ave., Ste. A  
Reno, NV 89501  
Fax No.: (775) 786-7544

  
Sheila Mansfield

**Jerry Snyder**

---

**From:** Jerry Snyder  
**Sent:** Thursday, May 11, 2006 4:38 PM  
**To:** 'Eric@Renofamilylaw.com'; 'carlotta.wells@usdoj.gov'  
**Subject:** draft protective order

attached is an electronic copy of the draft protective order that I circulated this afternoon

Eric -- I don't think that I have an eMail address for Mr. Flynn -- can you please forward to him?



HLRNODOCS-#538  
230-v1-Draft\_Pro...

Jerry M. Snyder  
Hale Lane Peek Dennison & Howard  
Reno Direct Dial: 775-327-3017  
Email: jsnyder@halelane.com  
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Attorneys for Plaintiff

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT COURT OF NEVADA**

DENNIS MONTGOMERY, an individual; and  
MONTGOMERY FAMILY TRUST, a California  
Trust,

CASE NO. 3:06-CV-00056-BES-VPC

Plaintiff,

**STIPULATED PROTECTIVE ORDER**

vs.

ETREPPID TECHNOLOGIES, L.L.C., a Nevada  
Limited Liability Company; WARREN TREPP,  
an individual; DEPARTMENT OF DEFENSE of  
the UNITED STATES OF AMERICA; and  
DOES 1 through 10,

Defendants

**STIPULATED PROTECTIVE ORDER**

IT IS HEREBY STIPULATED, AGREED, AND UNDERSTOOD by Plaintiffs Dennis Montgomery and the Montgomery Family Trust (collectively "Montgomery" or "Plaintiffs"); Defendants eTreppid Technologies, LLC ("eTreppid") and Warren Trepp ("Trepp") (collectively "Defendants"); and Defendant Department of Defense of the United States of America that in the course of this litigation a party may produce documents and information which are confidential or commercially sensitive in nature and that public disclosure of such information could be detrimental to the producing party's interests. Similarly, such confidential or commercially sensitive information

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1 may be disclosed by written discovery, deposition testimony, or in other filings with the Court. The  
2 parties accordingly submit this Stipulated Protective Order for the approval and enforcement of the  
3 Court and hereby stipulate as follows:

4 1. SCOPE. The present Stipulated Protective Order shall apply to all non-public  
5 information and materials provided or produced by the parties in the course of the above-captioned  
6 litigation, whether written, oral, contained in documents or transcripts, or in any other form, which has  
7 in good faith been designated "Confidential" or "Restricted Confidential" in accordance with  
8 Paragraphs 2 and 3 below.

9 2. DEFINITION OF CONFIDENTIAL INFORMATION. There will be two levels of  
10 confidential information - - "Confidential" and "Restricted Confidential." A producing party may  
11 designate as "Confidential" such non-public documents, information, and materials produced by it  
12 which the producing party believes in good faith constitute, contain or reflect proprietary, trade secret  
13 or commercially sensitive information, that is not generally known and/or which the party would not  
14 normally reveal to non-parties or, if revealed to non-parties, would cause non-parties to maintain in  
15 confidence. A producing party may designate as "Restricted Confidential" such Confidential  
16 documents, information, and materials produced by it which the producing party believes in good faith  
17 constitute, contain or reflect extremely sensitive and highly confidential proprietary, trade secret or  
18 commercial information, for which the designation Confidential will not afford adequate protection  
19 under the terms of this Stipulated Protective Order.

20 3. DESIGNATION.

21 (A) A producing party or its counsel may designate as Confidential or Restricted  
22 Confidential any documents or other tangible things by (i) marking every page of such item  
23 Confidential or Restricted Confidential as the case may be, or (ii) sending written notice designating  
24 each page of such documents or each portion of such tangible things to be treated as Confidential or  
25 Restricted Confidential as the case may be.

26 (B) A producing party or its counsel may designate deposition or other testimony  
27 provided by the producing party as Confidential or Restricted Confidential by any one of the following  
28 means: (i) stating orally on the record, with reasonable precision as to the affected testimony, on the  
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1 day the testimony is given that the information is Confidential or Restricted Confidential, or (ii)  
2 sending written notice designating, by page and line, the portions of the transcript of the deposition or  
3 other testimony to be treated as Confidential or Restricted Confidential within 10 days after receipt of  
4 the transcripts.

5 4. USE OF CONFIDENTIAL AND RESTRICTED CONFIDENTIAL INFORMATION.

6 Confidential and Restricted Confidential documents and information shall not be disclosed or  
7 communicated in any fashion nor be used for any purpose other than preparing for and conducting this  
8 litigation, as provided for in this Stipulated Protective Order. It will be the responsibility of each of  
9 the parties' counsel to use reasonable efforts to ensure compliance with the protective order. However,  
10 nothing in this Stipulated Protective Order shall prevent any producing party from disclosing or using  
11 its own Confidential or Restricted Confidential information as it deems appropriate, and any such use  
12 shall not be deemed a waiver of any party's rights or obligations under this Stipulated Protective Order  
13 with respect to any confidential information. In addition, nothing in this Stipulated Protective Order  
14 shall impose any restrictions on the use or disclosure by any party of documents, information,  
15 materials, or testimony obtained by such party independently of discovery in this litigation.

16 5. RESTRICTIONS ON ACCESS TO CONFIDENTIAL AND RESTRICTED  
17 CONFIDENTIAL INFORMATION.

18 (A) Access to Confidential information, and to any copies, portions, summaries,  
19 analyses or excerpts of any documents containing information that has been designated "Confidential"  
20 shall be limited to the following:

21 (1) Counsel of record for the parties to the litigation, including office  
22 associates, paralegals, stenographic and clerical employees;

23 (2) The parties to this action, their representatives, employees and agents,  
24 including in-house counsel;

25 (3) Outside witnesses, potential witnesses, consultants, and/or experts, subject  
26 to the provisions of Paragraph 6 below;

27 (4) Any person who is indicated on the face of a document to have been an  
28 author, addressee, or copy recipient thereof;



(5) The Court and court personnel, including clerks and stenographic reporters engaged in such proceedings as are necessarily incident to this litigation;

(6) Court reporters or stenographers who record deposition or other testimony in the litigation;

(7) Outside photocopying services, graphic production services, or litigation support services employed by the parties or their counsel to assist in this litigation, and computer personnel performing duties in relation to a computerized litigation system;

(8) Any other person whom the producing party agrees to in writing.

(B) Access to Restricted Confidential information, and any copies, portions, summaries, analyses or excerpts of any documents containing information that has been designated "Restricted Confidential" shall be limited to the following:

(1) Counsel of record for the parties to the litigation, including office associates, paralegal, stenographic and clerical employees.

(2) The Court and court personnel, including clerks and stenographic reporters engaged in such proceedings as are necessarily incident to this litigation.

(3) Court reporters or stenographers who record deposition or other testimony in the litigation.

(4) Any person who is indicated on the face of a document to have been an author, addressee, or copy recipient thereof.

(5) Outside photocopying services, graphic production services, or litigation support services employed by the parties or their counsel to assist in this litigation, and computer personnel performing duties in relation to a computerized litigation system.

(6) Outside consultants and/or experts, subject to the provisions of paragraph 6.

(7) Any other person whom the producing party agrees to in writing.

Documents or information which has been designated "Restricted Confidential" shall not be given to the receiving party or the receiving party's employees, representatives or agents, other than its counsel of record, or to any outside witness, unless such person is entitled to access to "Restricted Confidential" information pursuant to this paragraph.

1           6.     ACCESS BY OUTSIDE WITNESSES, CONSULTANTS, AND/OR EXPERTS TO  
2 CONFIDENTIAL INFORMATION. The parties' counsel may, to the extent necessary to the  
3 prosecution or defense of this action, in accordance with the terms of this Stipulated Protective Order,  
4 and in good faith, make confidential documents or information and any copies, portions, summaries,  
5 analyses or excerpts of any documents containing confidential information available to outside or non-  
6 party witnesses, consultants, or expert witnesses, provided, however, that, prior to delivering any such  
7 information to such witness, consultant, or expert, counsel shall obtain from the witness, consultant or  
8 expert, a signed and dated statement to the effect that the person has read this Amended Stipulated  
9 Protective Order and agrees to bound by its terms.

10           7.     RENDERING ADVICE. Nothing herein shall bar or otherwise restrict an attorney who  
11 is a qualified recipient of Restricted Confidential Information under the terms of this Order from  
12 rendering advice to his or her client with respect to this action and, in the course thereof, from  
13 generally relying upon his or her examination of such information. In rendering such advice or in  
14 otherwise communicating with the client, the attorney shall not disclose the specific content of any  
15 Restricted Confidential Information to any other person or party where such disclosure would not  
16 otherwise be permitted under the terms of this Order.

17           8.     DEPOSITIONS. Persons may be deposed regarding documents or information of  
18 which they have knowledge which have been designated "Confidential" or "Restricted Confidential."  
19 All transcripts of these depositions and any other deposition containing confidential information will  
20 be treated in accordance with this Stipulated Protective Order and when filed shall be marked pursuant  
21 to the procedures set forth in Paragraph 9 below.

22           Aside from the witness, no person shall attend any portion of any deposition containing  
23 testimony regarding confidential information or documents except counsel for the parties unless such  
24 person has executed the written statement described in Paragraph 6. Any court reporter who  
25 transcribes testimony in this action at a deposition shall agree, before transcribing any such testimony,  
26 that all testimony containing confidential information is and shall remain confidential and shall not be  
27 disclosed except as provided in this Stipulated Protective Order and that copies of any transcript,  
28 reporter's notes or any other transcription records of any such testimony will be retained in absolute  
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1 confidentiality and safekeeping by such shorthand reporter or delivered to attorneys of record or filed  
2 with the Court.

3 9. DISPUTES CONCERNING DESIGNATION OR DISCLOSURE OF DOCUMENTS.

4 If any party to this Stipulated Protective Order objects to the designation of any information as  
5 Confidential or Restricted Confidential or there is a dispute concerning the disclosure of confidential  
6 information to the person(s) designated by the parties, the party having the objection or dispute shall  
7 first state the objection or issue by letter to the party that made such designations. The parties agree to  
8 confer in good faith by telephone or in person to resolve any dispute respecting the terms or operation  
9 of this Stipulated Protective Order. If the parties are unable to resolve such a dispute within 3 days of  
10 such conference, the dispute shall be submitted to the Court. In any such proceeding, the designating  
11 party shall have the burden of establishing that the disputed documents or information are  
12 "Confidential" or "Restricted Confidential", as defined in Paragraph 2 above. No disclosure of any  
13 document or information in dispute shall be made pending resolution of the dispute. In the event that  
14 the Court is required to review a claim of confidentiality, the particular documents or information that  
15 has been challenged shall be submitted to the Court for in camera inspection.

16 The failure of any party to challenge the designation by another producing party of documents,  
17 materials, or information as Confidential or Restricted Confidential during the discovery period shall  
18 not be a waiver of that party's right to object to the designation of such material at trial.

19 10. FILING WITH THE COURT. All discovery materials filed with this Court and any  
20 appellate court which contain "Confidential" or "Restricted Confidential" information, and any  
21 pleading, brief or memorandum purporting to reproduce or paraphrase "Confidential" or "Restricted  
22 Confidential" information, shall be filed in sealed envelopes on which shall be endorsed the title of this  
23 action, an indication of the nature of the contents, the word CONFIDENTIAL and the following  
24 statement:

25 This envelope contains documents which are filed in this case by (name of  
26 party) and is not to be opened nor the contents thereof revealed except by  
27 court order. This envelope and its contents shall at all times be maintained  
separate and apart from the publicly available files of this action, and shall  
not be subject to the public records law.

28 If, at the time of trial, counsel for any of the parties seeks to introduce into evidence any

1 document or portion thereof or portion(s) of deposition testimony that has been designated  
2 "Confidential" or "Restricted Confidential," the Court will take such steps as it shall deem reasonably  
3 necessary to preserve the confidentiality of such information. All oral presentations to the Court  
4 concerning or referencing any confidential information shall be held in camera, unless the Court orders  
5 otherwise.

6 11. NO IMPLIED ACKNOWLEDGMENT OF CONFIDENTIALITY. The receipt of  
7 documents, information or other materials designated as Confidential or Restricted Confidential  
8 pursuant to this Stipulated Protective Order shall not constitute an acknowledgment that the same are  
9 in fact confidential or otherwise legally protectable, and the parties and their counsel shall not be  
10 obliged to challenge the propriety of any confidentiality designation. Failure to do so shall not  
11 preclude a subsequent challenge to the propriety of any such designation. Until and unless the parties  
12 may agree or the Court may finally determine that such documents, information or materials are not  
13 properly designated as Confidential or Restricted Confidential pursuant hereto, the same shall continue  
14 to be treated as so designated in accordance with the terms of this Stipulated Protective Order.

15 12. NO WAIVER. The production of documents for inspection shall not constitute a  
16 waiver of a party's rights to claim in this lawsuit or otherwise that the documents are privileged or  
17 otherwise undiscoverable. Production by any party of confidential documents or information in other  
18 litigation shall not constitute a waiver of its right to claim in this lawsuit or hereafter that such  
19 documents or information are confidential, privileged or otherwise undiscoverable. Nothing in this  
20 Stipulated Protective Order requires any party to produce any documents or information that the party  
21 believes is privileged or otherwise non-discoverable. By entering into this Stipulated Protective  
22 Order, the parties do not waive any right to object to any discovery request, or to the admission of  
23 evidence on any ground, or seek any further protective order, or to seek relief from the Court from any  
24 provision of this Stipulated Protective Order by application on notice on any grounds.

25 13. THIRD PARTIES. Any third-party served with a subpoena in connection with this  
26 litigation or who otherwise produces documents or is noticed for a deposition in connection with this  
27 litigation may invoke the protections of this Stipulated Protective Order by signing a copy of this  
28 Stipulated Protective Order and agreeing to be bound by its terms.

1           14.    DISPOSITION OF CONFIDENTIAL DOCUMENTS AND INFORMATION UPON  
2 FINAL DETERMINATION. Upon the final determination of this action, whether by judgment which  
3 is no longer appealable, determination after appeal, settlement, or otherwise, all documents,  
4 information and material designated as "Confidential" or "Restricted Confidential" and all copies,  
5 testimony, summaries, notes, extracts, or abstracts of such documents or of such information shall  
6 promptly be returned to the producing party's counsel, or disposed of pursuant to further order of the  
7 Court, except that counsel shall be entitled to retain all memoranda or other documents prepared by  
8 counsel embodying information derived from any such materials; provided, however, that no  
9 subsequent use shall entail disclosure of any information as to which claim of confidentiality has been  
10 made. The final determination of this action shall not terminate the limitations on use and disclosure  
11 contained in this Stipulated Protective Order.

12           15.    AMENDMENT AND MODIFICATION. This Stipulated Protective Order may be  
13 amended by the written agreement of counsel for the parties submitted to an approved by the Court in  
14 this case. Nothing in this Stipulated Protective Order shall preclude any party to this action from  
15 moving to vacate or modify this Stipulated Protective Order or any provision thereof.

16           16.    JURISDICTION AND ENFORCEMENT. Any person to whom documents or  
17 information designated as "Confidential" or "Restricted Confidential" are disclosed shall be subject to  
18 the jurisdiction of this Court for purposes of determining, assuring and adjudging such person's  
19 compliance with this Stipulated Protective Order. This jurisdiction shall survive the termination of this  
20 action. Any party or person subject to this Stipulated Protective Order who violates its provisions

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23 ///

1 shall be liable for contempt of court and damages for any injuries or loss suffered by the producing  
2 party as a result of such violation.

3 Dated: This \_\_\_\_ day of May, 2006.

Dated: This \_\_\_\_ day of May, 2006.

4  
5 \_\_\_\_\_  
6 Eric A. Pulver, Esq.  
7 Nevada Bar No. 7874  
8 Ronald J. Logar, Esq.  
9 Nevada Bar No. 303  
10 The Law Offices of Logar & Pulver  
11 225 S. Arlington Avenue, Suite A  
12 Reno, NV 89501  
13 T. 775/786-5040; F. 775/786-7544  
14 *Attorneys for Plaintiffs*

\_\_\_\_\_

J. Stephen Peek, Esquire  
Nevada Bar Number 1758  
Jerry M. Snyder, Esq.  
Nevada Bar No. 6830  
Hale Lane Peek Dennison & Howard  
5441 Kietzke Lane, Second Floor  
Reno, NV 89511  
T. 775/327-3000; F. 775/786-6179  
*Attorneys for Defendants*

11  
12 Dated: This \_\_\_\_ day of May, 2006.

13 \_\_\_\_\_

14 Carlotta P. Wells, Esq.  
15 Senior Trial Counsel  
16 Federal Programs Branch  
17 Civil Division – Room 7150  
18 U.S. Department of Justice  
19 20 Massachusetts Ave., NW  
20 P.O. Box 883  
21 Washington, DC 20044  
22 T. 202/514-4522; F. 202/616-8470  
23 *Attorneys for Defendants*

19 IT IS SO ORDERED.

20 DATED this \_\_\_\_ May, 2006.

21 \_\_\_\_\_

22 DISTRICT COURT JUDGE

**FLYNN & STILLMAN**  
 PO Box 690  
 Rancho Santa Fe, CA 92067  
 (858)759-7000 • Fax: (858) 759-0711

## FAX COVER SHEET

To: Jerry Snyder

FAX NUMBER TRANSMITTED TO: 775 786 6179

From: Michael J Flynn

Date: 7/ 26/ 06

### DOCUMENTS:

**NUMBER OF PAGES\***  
 (not including fax cover page)

1	Letter and "Attachment A"	5
2.		
3.		
4		

### COMMENTS:

Jerry:

Attached is the letter we discussed including the agreed upon stipulation and the docs we believe you should produce in your "initial disclosures".

Also, when you fax/mail to me, please send to my home office address on this fax letterhead and on the attached letterhead. Thanks.

Mike

CONFIDENTIALITY APPLIES IF THIS BOX IS CHECKED: ☐

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ONE CENTER PLAZA, SUITE 240  
BOSTON, MASSACHUSETTS 02108  
TELEPHONE 617 720 2700  
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CELL 617 710 8100

July 26, 2006

Re: eTreppid v Montgomery, Case No. 3: 06-cv-145  
Montgomery v Trepp, Case No. 3: 06-cv-56

Dear Mr. Snyder:

In connection with the above two cases, this letter will confirm the stipulation we entered into on Monday, July 24, 2006 in our teleconference in connection with our respective Rule 26 obligations to produce and exchange documents as part of our "initial disclosures". We have agreed as follows:

1. Each side will comply with their respective Rule 26 (a) (1) (B) obligations by producing and exchanging all documents and discovery requirements in compliance with Rule 26 (a) (1) (B) by August 7, 2006.
2. Each side waives any claim of non-compliance of Rule 26 for failing to produce and exchange the required discovery prior to August 7, 2006; but each side preserves any claim for non-compliance with Rule 26 after August 7, 2006.

If you disagree with any aspect of the foregoing stated stipulation, please advise forthwith.

Additionally, pursuant to our phone conference, I am also attaching herewith as "Attachment A", a list of documents and discovery which I believe you have an obligation to produce and exchange as part of your Rule 26 (a) (1) (B) "initial disclosures" compliance. As stated on the phone today, this list is NOT intended to be comprehensive, nor does it seek to impose a discovery demand on you or your client, not required by Rule 26. It merely represents a list of documents and discovery based upon your pleadings in the above cases which we designate as required by said pleadings, and/or by Warren Trepp, *as a co-owner with Mr. Montgomery*, and his filing of a criminal complaint against Mr. Montgomery. Thus, it encompasses documents and information which you provided to any Governmental agency in order to initiate



Governmental action against Mr. Montgomery for purposes of advancing your civil litigation strategies and claims.

In the event of a failure to comply with Rule 26, the list merely serves as a notice to you and your client for purposes of potential future motions and/or if you seek to rely upon specific documents and/or information either in discovery motions, dispositive motions or at trial; or in any matter involving the criminal complaint lodged by your client.

Further, as stated in our teleconference, we believe that the most efficient method of proceeding in connection with the issues raised by the protective orders proposed by us, by you and by the Government, in line with the modern trend and in conformity with Rule 26 (a) (1) and (c) (d) (f) and (g), is for each party to designate in their Rule 26 compliance those documents and/or information that each party claims are protected by some form of privilege, classification etc under Rule 26 (c). Thus, in conformity with the Rule, all parties and the Court will have some understanding of precisely what each side seeks to protect and avoid the potentially overbroad language and application of an ambiguous protective order. We believe this is particularly applicable in this case where there are such overriding constitutional issues involved, and where there is such uncertainty as to what is/was classified and what is/was not – particularly in light of the now obvious failure of the Air Force, eTreppid and it's employees, Patty Gray and Sloan Venables to comply with the National Industrial Security Program Operating Manual.

As Judge Walker recently made clear in the Hepting v AT&T case, relying upon established 9<sup>th</sup> Circuit precedent, constitutional safeguards imposed by due process cannot just be ignored by a Governmental claim of privilege. Judicial inquiry is required. This is all the more true in this case because of the serious fourth amendment violations now pending before the Court, all spawned by your client, Warren Trepp. In our view, this makes *full* compliance with Rule 26 particularly imperative in this matter.

Very Truly Yours,

  
Michael J. Flynn

ATTACHMENT A

1. CD No. 1 referenced in the Sept. 28, 1998 "Contribution Agreement".
2. The original Sept. 28, 1998 "Contribution Agreement" and all schedules, attachments, amendments etc.
3. All "Operating Agreements" of eTreppid and Intrepid from 1998 to the present, and all schedules, attachments, amendments etc.
4. All financial statements of Intrepid and eTreppid from 1998 to the present.
5. All minutes and records of the Management Committee from 1998 to present.
6. All corporate records of Intrepid and eTreppid from 1998 to the present.
7. All patent applications submitted by Intrepid or eTreppid, including but not limited to all supporting documents such as a full statement of all of the algorithms for each patent.
8. All reports, records, correspondence, notes, emails, memos etc of all employees, technicians, experts or consultants who have tested, examined or reviewed the currently existing software systems at eTreppid from January 1, 2006 to the present.
9. All telephone records of eTreppid from March 2003 to the present.
10. All cell phone records of Warren Trepp from March 2003 to the present.
11. All financial records of Intrepid and eTreppid from 1998 to the present.
12. For inspection and copying: all computers used by Warren Trepp from 1998 to the present.

13. All documents, electronic media, emails, correspondence, information, records, notes, memos and any form of information delivery, delivered to any US Governmental official after December 1, 2005.
14. All documents and electronic media of every nature and description relating to eTreppid or any of its agents, employees, consultants etc and the security clearance of Dennis Montgomery.
15. All inventories of the contents of any safe maintained by eTreppid and/or Warren Trepp.
16. For inspection and copying: all software programs or any portion thereof currently existing at eTreppid which you claim constitute eTreppid's "Trade Secrets".
17. All bank statements, cancelled checks, wire transfers, cashier checks, etc. from Sept. 28, 1998 to the present.
18. All payroll records including all bonuses, from Sept. 28, 1998 to the present.
19. All contracts, and all records relating to all contracts including governments, and private companies, from Sept. 28, 1998 to the present; including any contracts with Trans Exec Air of Van Nuys, Ca.
20. All accounts receivables and payables records, from Sept. 28, 1998 to the present.
21. All lease agreements between eTreppid and any company or individual (Building lease, equipment lease, etc), from Sept. 28, 1998 to the present.
22. All agreements with Ascentia capital of Reno, NV.
23. All evidence that supports eTreppid's purchase of third party licenses for all software used in the business, such as Windows Operating Systems, Microsoft Office, Diskeeper, Norton Antivirus,

and any third party software used by the company.

24. All copies of legal billing records, including but not limited to the billing records of Douglas Frye, and David Jakopin, from Sept. 28, 1998 to the present. In the event you claim an attorney/client privilege for any such records, please provide a privilege log.
25. All employee agreements signed by any employee in the company.
26. All revisions and editions, past and present of eTreppid's employee manual.
27. All correspondence, emails and communications between any government official and any eTreppid employee, agent, principal, officer, Manager or Chairman.
28. All of Warren Trepp's emails, correspondence, and communications of every nature and description with Ronald Bath, Paul Hareldsen, James Gibbons, Michael Milken, Douglas Frye, Michael West, and any agent or employee of any Governmental agency.

## DOCUMENTS PRODUCED BY eTREPID

DocId#	EndDoc#	Docdate	Author	Recip	Cc	Dctype	Summary	Privilege
eTrepid0000001	eTrepid0000057	11/01/2001	eTrepid Technologies, LLC			Agreement	Amended and Restated Operating Agreement of eTrepid Technologies, LLC, A Nevada Limited-Liability Company Dated and Adopted Effective as of November 1, 2001	Confidential
eTrepid0000058	eTrepid000105	01/01/1999	Intrepid Technologies, LLC			Agreement	Amended and Restated Operating Agreement of Intrepid Technologies, LLC Dated and Adopted Effective as of January 1, 1999	Confidential
eTrepid000106	eTrepid000138	09/28/0998	Intrepid Technologies, LLC			Agreement	Executed copy of Operating Agreement of Intrepid Technologies, LLC Dated and Adopted Effective as of September 28, 1998.	Confidential
eTrepid000139	eTrepid000142	12/28/2005	Friendly Capital Partners, L.P.	Brenda K. Montgomery Dennis Montgomery Montgomery Family Trust		Agreement	Agreement and modification of Promissory Note and Confidential Security Agreement (Modification No. 2)	Confidential
eTrepid000143	eTrepid000147	11/06/2001	eTrepid Technologies, LLC	Dennis Montgomery Brenda K. Montgomery Montgomery Family Trust		Agreement	Redemption Agreement between Dennis Montgomery and Brenda Montgomery and eTrepid Technologies, LLC	Confidential
eTrepid000148	eTrepid000149	11/06/2001	Montgomery Family Trust	eTrepid Technologies, LLC		Assignment	Assignment of LLC Interest by the Montgomery Family Trust to eTrepid Technologies, LLC of 2,719.14 Class A Units and correspondence 2.00% Percentage Interest in the Company in consideration of the payment of \$1,500,013.58.	Confidential
eTrepid000150	eTrepid000154	10/16/2002	Dennis Montgomery Brenda K. Montgomery Montgomery Family Trust	eTrepid Technologies, LLC		Agreement	Executed copy of Redemption Agreement between Dennis Montgomery and Brenda K. Montgomery as Trustees of The Montgomery Family Trust and eTrepid Technologies, LLC	Confidential

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## DOCUMENTS PRODUCED BY eTREPID

Begin#	EndDoc#	Docdate	Author	Recp	Cc	DocType	Summary	Privilege
eTrepid000155	eTrepid000156	10/16/2002	Montgomery Family Trust	eTrepid Technologies, LLC		Assignment	Executed copy of Assignment of LLC Interest by the Montgomery Family Trust to eTrepid Technologies, LLC of 1,416.22 Class A Units and 1% Percentage Interest in the Company in consideration of \$750,001.79.	Confidential
eTrepid000157	eTrepid000157	12/31/2005	eTrepid Technologies, LLC Montgomery	Dennis		Statement	Form W-2 Wage and Tax Statement for Dennis Montgomery for the tax year 2005	
eTrepid000158	eTrepid000158	12/31/2004	eTrepid Technologies, LLC Montgomery	Dennis		Statement	Form W-2 Wage and Tax Statement for Dennis Montgomery for the tax year 2004	
eTrepid000159	eTrepid000159	12/31/2003	eTrepid Technologies, LLC Montgomery	Dennis		Statement	Form W-2 Wage and Tax Statement for Dennis Montgomery for the tax year 2003	
eTrepid000160	eTrepid000166	03/07/2002	Dennis Montgomery	eTrepid Technologies, LLC		Assignment	Assignment of U.S. Origin Patent Application by Dennis L. Montgomery to eTrepid Technologies, LLC of an invention entitled "Optical Encoding of Audio Data", under Serial No. 10/033,537 w/copy of of Patent Application Publication attached.	
eTrepid000167	eTrepid000189	06/12/2001	Dennis Montgomery	eTrepid Technologies, LLC		Assignment	Assignment of U.S. Origin Patent Application by Dennis L. Montgomery to eTrepid Technologies, LLC of an invention entitled "Method and Apparatus for Streaming Data Using Rotating Cryptographic Keys", under Serial No. 09/823,278 w/copy of of Patent Application Publication attached.	
eTrepid000190	eTrepid000212	03/20/2001	Dennis Montgomery	eTrepid Technologies, LLC		Assignment	Assignment of U.S. Origin Patent Application by Dennis L. Montgomery to eTrepid Technologies, LLC of an invention entitled "Method and Apparatus for Encoding Information Using Multiple Passes and Decoding in a Single Pass", under Serial No. 09/727,096 w/copy of of Patent Application Publication attached.	

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## DOCUMENTS PRODUCED BY eTREPPID

Exhibit #	DocId#	Docdate	Author	Recip	Cc	DocType	Summary	Privilege
eTreppid000213	eTreppid000223	01/24/2002	Dennis Montgomery	eTreppid Technologies, LLC		Assignment	Assignment of U.S. Origin Patent Application by Dennis L. Montgomery to eTreppid Technologies, LLC of an invention entitled "Method and Apparatus for Storing Digital Video Content Provided from a Plurality of Cameras", under Serial No. 09/991,527 w/copy of Patent Application Publication attached.	
eTreppid000224	eTreppid000230	01/24/2002	Dennis Montgomery	eTreppid Technologies, LLC		Assignment	Assignment of U.S. Origin Patent Application by Dennis L. Montgomery to eTreppid Technologies, LLC of an invention entitled "System and Method for Managing Memory in a Surveillance System", under Serial No. 09/991,487 w/copy of Patent Application Publication attached.	
eTreppid000231	eTreppid000242	01/24/2002	Dennis Montgomery	eTreppid Technologies, LLC		Assignment	Assignment of U.S. Origin Patent Application by Dennis L. Montgomery to eTreppid Technologies, LLC of an invention entitled "Method and System for Size Adaptation and Storage Minimization, Source Noise Correction, and Source Watermarking of Digital Data Frames", under Serial No. 09/991,528 w/copy of Patent Application Publication attached.	
eTreppid000243	eTreppid000253	01/24/2002	Dennis Montgomery	eTreppid Technologies, LLC		Assignment	Assignment of U.S. Origin Patent Application by Dennis L. Montgomery to eTreppid Technologies, LLC of an invention entitled "Data Gathering in Games of Chance", under Serial No. 09/991,531 w/copy of Patent Application Publication attached.	
eTreppid000254	eTreppid000259	01/24/2002	Dennis Montgomery	eTreppid Technologies, LLC		Assignment	Assignment of U.S. Origin Patent Application by Dennis L. Montgomery to eTreppid Technologies, LLC of an invention entitled "System and Method for Generating Alert Conditions in a Surveillance System", under Serial No. 09/991,490 w/copy of Patent Application Publication attached.	

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## DOCUMENTS PRODUCED BY eTREPID

Beginner	Enddate	Docdate	Author	Recp	Cc	Datatype	Summary	Privilege
eTrepid000260	eTrepid000270	01/24/2002	Dennis Montgomery	eTrepid Technologies, LLC		Assignment	Assignment of U.S. Origin Patent Application by Dennis L. Montgomery to eTrepid Technologies, LLC of an invention entitled "Method and Apparatus for Detecting and Reacting to Occurrence of an Event", under Serial No. 09/990,868 w/copy of of Patent Application Publication attached.	
eTrepid000271	eTrepid000310	01/24/2002	Dennis Montgomery	eTrepid Technologies, LLC		Assignment	Assignment of U.S. Origin Patent Application by Dennis L. Montgomery to eTrepid Technologies, LLC of an invention entitled "Method and Apparatus for Determining Patterns Within Adjacent Blocks of Data", under Serial No. 09/999,776 w/copy of of Patent Application Publication attached.	
eTrepid000311	eTrepid000333	02/02/2006	Dennis Montgomery	Douglas J. Frye Warren E. Trepp		E-Mail	Attached power point presentation on eTrepid Technologies.	Confidential
eTrepid000334	eTrepid000344	11/09/2000	Douglas J. Frye	Cathy Kinzer Intel		E-Mail	Attached white paper outline and compression test of eTrepid products.	Confidential
eTrepid000345	eTrepid000348	07/24/2000	Douglas J. Frye	Dennis Montgomery		E-Mail	Attached updated version of information about eTrepid	Confidential
eTrepid000349	eTrepid000358	10/01/2000	Douglas J. Frye	Dennis Montgomery		E-Mail	Attached edited version of outline of eTrepid/Compaq meeting.	Confidential
eTrepid000359	eTrepid000361	04/01/2000	Dennis Montgomery	Saint Mary's Health First		Application	Enrollment and change form by Dennis Montgomery; attached check from Intrepid Technologies to St. Mary's for \$2,103.77 for health/dental insurance.	
eTrepid000362	eTrepid000373	05/25/2001	eTrepid Technologies, LLC			Resolution	Action taken without a meeting by the Management Committee of eTrepid Technologies, LLC - authorization for sale of additional Class B units in private offering	Confidential
eTrepid000374	eTrepid000384	12/11/2000	eTrepid Technologies, LLC			Resolution	Action taken without a meeting by the Management Committee of eTrepid Technologies, LLC - authorization for sale of additional Class B units in private offering	Confidential

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## DOCUMENTS PRODUCED BY eTREPPID

Begdate	Enddate	Docdate	Author	Recip	Cc	Ddoctype	Summary	Privilege
eTrepid0000385	eTrepid0000395	07/07/2000	eTrepid Technologies, LLC			Resolution	Action taken without a meeting by the Management Committee of eTrepid Technologies, LLC - authorization for sale of additional Class B units in private offering	Confidential
eTrepid0000396	eTrepid0000399	12/29/2005	Friendly Capital Partners, L.P.	Brenda K. Montgomery Dennis Montgomery Montgomery Family Trust		Agreement	Agreement and Modification of Promissory Note and Security Agreement (Modification No. 2)	Confidential
eTrepid0000400	eTrepid0000406	11/06/2001	Dennis Montgomery Brenda K. Montgomery	eTrepid Technologies, LLC		Agreement	Redemption Agreement providing for sale of Montgomery's 2,719.14 Class A Units	Confidential
eTrepid0000407	eTrepid0000413	10/16/2002	Dennis Montgomery Brenda K. Montgomery Montgomery Family Trust	eTrepid Technologies, LLC		Agreement	Redemption Agreement for sale of Montgomery's 1,416.22 Class A units and corresponding 1% percentage interest in the Company.	Confidential
eTrepid0000414	eTrepid0000416	12/31/2003	eTrepid Technologies, LLC Dennis Montgomery			Statement	Form W-2's for Dennis Montgomery for 2003-2005	
eTrepid0000417	eTrepid0000441	08/22/2001				Plan	eTrepid Technologies, LLC Business Plan	Confidential
eTrepid0000442	eTrepid0000468	02/02/2006	eTrepid Technologies, LLC			Handbook	eTrepid Technologies, LLC Employee Handbook	Confidential
eTrepid0000469	eTrepid0000469	04/11/2001	Dennis Montgomery	Douglas J. Frye		E-Mail	Referencing employee handbook and his agreement to Frye's suggestion of distributing it to the employees.	Confidential

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## DOCUMENTS PRODUCED BY eTREPPIID

Reprod#	Indoc#	Docdate	Author	Recip	Gr	Dctype	Summary	Privilege
eTrepid000470	eTrepid000478	02/09/2006	California Secretary of State			Certification	Certification by California Secretary of State of attached copies as true and correct - attached Statement and Designation by Foreign Corporation - 3 Net Systems, Inc.; Amended Statement and Designation by Foreign Corporation (3 Net Systems, Inc.; Amended Statement by Alternative Technology Resources, Inc.; Amended Statement by National Healthcare Exchange Services	
eTrepid000479	eTrepid000480	08/08/2003	Alternative Technology Resources, Inc.	Delaware Department of State		Statement	UCC Financing Statement by Alternative Technology Resources, Inc. showing CSM Partners as secured party	Confidential
eTrepid000481	eTrepid000507	02/09/2006	California Secretary of State			Certification	Certification by California Secretary of true and correct copies of: Articles of Incorporation of Next Step Software Systems, Inc.; Certificate of Amendment of Articles of Incorporation of Next Step changing name to 3net Systems, Inc.; Restated Articles of Incorporation of 3Net Systems, Inc.; Certificate of Determination of Preferences of Series A. Preferred Stock of 3Net Systems, Inc.; Certificate of Ownership and Merger merging 3Net Systems, a California corporation into 3Net Systems, a Delaware corporation.	
eTrepid000508	eTrepid000561	02/22/2006	Copyright Office of the United States			Source Code	Certification with attached copies that the attached are a true representation of the work entitled Computerate Source Code for Hewlett Packard Model 86 Mind Blood Gas Quality Control Software registered under No. TXu 119-540	
eTrepid000562	eTrepid000615	02/22/2006	Copyright Office of the United States			Source Code	Certification with attached copies that the attached are a true representation of the work entitled Computerate Source Code for Hewlett Packard Model 86 Evapotranspiration irrigation software Control Software registered under No. TXu 117-868	
eTrepid000616	eTrepid000618	04/04/2003	eTrepid Technologies, LLC Patty Gray	Rick O'Shea		E-Mail	Attaching fixed version of background information about eTrepid Technologies, LLC	Confidential

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## DOCUMENTS PRODUCED BY eTREPPID

Doc#	Index#	Date	Author	Recp	CC	DocType	Summary	Privilege
eTreppid000619	eTreppid000639	06/10/2002	General Electric Company	eTreppid Technologies, LLC		Agreement	License and Manufacturing Agreement between General Electric Company and eTreppid Technologies - DJF Redlined Draft of 6/10/02	Confidential
eTreppid000640	eTreppid000643	05/06/2002	eTreppid Technologies, LLC			List	eTreppid Technologies, LLC Surveillance MSRP as of 5/6/02	Confidential
eTreppid000644	eTreppid000646	05/09/2002	Douglas J. Frye	File eTreppid Technologies, LLC		Memorandum	Confidential memorandum re GE Interlogix Agreements	Confidential
eTreppid000647	eTreppid000651	04/16/2003	Patty Gray eTreppid Technologies, LLC	Warren E. Trepp		Minutes	E-mail attaching GE minutes and requesting that he review them for changes	Confidential
eTreppid000652	eTreppid000662	02/08/2006	Cathy Kinzer Intel	eTreppid Technologies, LLC		E-Mail	E-mail stating that pattern recognition is addressed in their white paper from November 2000 with attached Outline of eTreppid Products and Compression Tests	Confidential
eTreppid000663	eTreppid000665	11/13/2000	eTreppid Technologies, LLC			Disclosure	Memo describing eTreppid's confidential information which was disclosed to Intel on November 13, 2000.	Confidential
eTreppid000666	eTreppid000669	12/15/2000	eTreppid Technologies, LLC	Cathy Kinzer	Dennis Montgomery Warren E. Trepp	Disclosure	E-mail with attached confidential information disclosure which supplements the CND A #591121 dated November 27, 2000 between eTreppid and Intel	Confidential
eTreppid000670	eTreppid000691	03/30/2001	Dennis Montgomery	Cathy Kinzer Party Gray	Douglas J. Frye Warren E. Trepp	E-Mail	Attaching powerpoint presentation re eTreppid Technologies Digital Compression Products	Confidential
eTreppid000692	eTreppid000694	03/08/2001	Cathy Kinzer			Notes	Meetings notes by Cathy Kinzer of meeting of 3/8/01 attended by Warren Trepp, Doug Frye, Dennis Montgomery, Patty Gray, Sean Cunningham, Paul Burke and Cathy Kinzer	Confidential
eTreppid000695	eTreppid000697	08/06/2001	Cathy Kinzer			Notes	Cathy Kinzer's meeting notes of 8/6/01 meeting between eTreppid and Intel	Confidential

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## DOCUMENTS PRODUCED BY eTREPPIID

Report#	Enddoc#	Docdate	Author	Recip	Cc	Datatype	Summary	Privilege
eTrepid0000701	eTrepid0000704	01/13/2003					Statement of Work for eTrepid Technologies Support to the Unmanned Aerial Vehicle Battlelab's Digital Imagery Video-Compression & Object Tracking (DIVOT) initiative	Confidential
eTrepid0000705	eTrepid0000710	01/14/2003	AAC/RKO-FA282 3	eTrepid Technologies, LLC		Order	Order for Supplies or Services; Req./Purchase Request No. F753Wg301301	Confidential
eTrepid0000711	eTrepid0000714	03/27/2003	Air Force Communications Agency			Report	Third party evaluator's report results provided by Air Force Communications Agency	Confidential
eTrepid0000715	eTrepid0000716	10/23/2002	Brad Purvis	Party Gray		E-Mail	E-mail string between Craig Nazelrod, Party Gray, Brad Purvis and John McCool re whether Battlelab should be the go-between for eTrepid and SOCOM	Confidential
eTrepid0000717	eTrepid0000718	10/30/2002	Craig Nazelrod	Stephen Bishop	Brad Purvis Dennis McNeil Dennis Montgomery Gordon Metherington John McCool Janice Morrow Party Gray	E-Mail	Responding to e-mail from Stephen Bishop of interest by Rand Corp. in the divorce brief.	Confidential
eTrepid0000719	eTrepid0000721	03/05/2003	eTrepid Technologies, LLC			Summary	Time sheets for Dennis Montgomery, Warren Trepp and Party Gray for the period from 1/15/03 to 4/2/03 showing hours spent and description of work and/or expenses	Confidential
eTrepid0000722	eTrepid0000725	02/25/2003	eTrepid Technologies, LLC	SAIC		Report	Report on DIVOT Initiative for Pointer	Confidential
eTrepid0000726	eTrepid0000741	06/01/2003	UAV Battlelab			Report	Interim Report Digital Imagery & Video Compression & Objective Tracking Initiative. Proprietary Information - For Official Use Only	Restricted Confidential
eTrepid0000742	eTrepid0000745	07/24/2000	Douglas J. Frye	Dennis Montgomery		E-Mail	Attaching updated version of eTrepid description with changed header and footer.	Confidential

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## DOCUMENTS PRODUCED BY eTREPPID

Regdoc#	Enddoc#	Docdate	Author	Recd	Cc	Ddoctype	Summary	Privilege
eTreppid000746	eTreppid000755	10/01/2000	Douglas J. Frye	Dennis Montgomery		E-Mail	Attached edited version of the outline of eTreppid/Compaq Meeting of 9/28/00	Confidential
eTreppid000756	eTreppid000766	11/09/2000	Douglas J. Frye	Cathy Kinzer Intel	Dennis Montgomery Warren E. Trepp	E-Mail	Attaching a White Paper outline and compression test of eTreppid products provided to Intel pursuant to the single use non-disclosure agreement between intel and eTreppid	Confidential
eTreppid000767	eTreppid000767	07/02/2002	L-3 Communications Ron Nelson	eTreppid Technologies, LLC John Tyson		Memorandum	Memo to John Tyson from Ron Nelson re compression data tape condition	Confidential
eTreppid000768	eTreppid000769	07/11/2002	eTreppid Technologies, LLC John Tyson	Sue Zangara		E-Mail	Forwarding -mail to Montgomery referencing SLIC test data collection.	Confidential
eTreppid000770	eTreppid000771	08/12/2002	L-3 Communications Leonard Crews	Douglas J. Frye eTreppid Technologies, LLC		Facsimile	Referencing a Non-Disclosure Agreement and requesting that he sign it and return to his attention.	Confidential
eTreppid000772	eTreppid000773	10/03/2002	Party Gray	Dennis Montgomery Warren E. Trepp John		Proposal	Referencing proposal for L3Com SOW/RFP Bidder Pricing Estimate. Would like to make changes but may not be able to now. Note to John that his math is wrong in 3 places.	Confidential
eTreppid000774	eTreppid000774	08/27/2002	Craig Nazetrod	Brad Purvis John McCool John Tyson		E-Mail	Referencing October 5-6 meeting with GA	Confidential
eTreppid000775	eTreppid000775	09/05/2002				Agenda	DIVOT Meeting Agenda 9/5/02	
eTreppid000776	eTreppid000776	09/09/2002	Dennis Montgomery	John Tyson		E-Mail	Referencing Divot meeting recap and actions required	Confidential
eTreppid000777	eTreppid000777	02/07/2003	Craig Nazetrod	John Choby		E-Mail	Inquiring about a start time for next week's demo.	Confidential

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## DOCUMENTS PRODUCED BY eTREPPID

Reqdoc#	Extdoc#	Docdate	Author	Recip	Cc	Ddoctype	Summary	Privilege
eTrepPID000778	eTrepPID000778	01/14/2003	AAC/PAO-FA282 3 Eglin AFB FL	eTrepPID Technologies, LLC		Order	Order for supplies or services; Req/Purch. Request No. F753WG301301	Confidential
eTrepPID000779	eTrepPID000779	11/18/2002	L-3 Communications	eTrepPID Technologies, LLC		Purchase Order	L-3 Communications Purchase No. 209545S	Confidential

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08/07/2006

**FLYNN & STILLMAN**

224 BIRMINGHAM DRIVE, SUITE 1A4  
CARDIFF, CALIFORNIA 92007

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TELEPHONE (617) 720-2700  
FACSIMILE (617) 720-2709

July 24, 2006

**VIA FACSIMILE**

Jerry M. Snyder, Esq.  
Hale Lane  
5441 Kietzke Lane, Second Floor  
Reno, NV 89511

Re: ***eTreppid Technologies, LLC***

Dear Jerry:

As you obviously know, this office represents Dennis Montgomery and the Montgomery Family Trust, who are members of eTreppid Technologies, LLC. On March 13, 2006, Mr. Montgomery received notice of the decision by the Management Committee to make a distribution to the members, along with an attached list of members and the respective membership interests held by those members. Mr. Montgomery's share was allegedly applied to pay down a purported promissory note that has an overtly forged signature on it.

In any event, as a member, Mr. Montgomery and the Montgomery Family Trust are hereby exercising their right under the eTreppid Technologies, LLC Operating Agreement, ¶ 9.3, to inspect the books and records of the LLC on or before Friday, July 28 at the offices of eTreppid or at the offices of the Registered Agent, GKL Resident Agent, 1100 William Street, Suite 207, Carson City, NV. at 11 a.m. At a minimum, we will inspect the following documents for the period of time from inception to the present:

- a. All corporate records of the LLC, including any minute books of the management committee, all required filings with the Nevada Secretary of State, and all minutes of any meetings of the members of the LLC;
- b. All records showing dilutions of Dennis Montgomery and/or the Montgomery Family Trust's interests in eTreppid Technologies;
- c. All records showing loans made to any Member and the terms thereof;
- d. All records showing withdrawals and/or distributions to any Member;

Jerry M. Snyder, Esq.  
Re: *eTreppid Technologies, LLC*  
July 24, 2006  
Page 2 of 2

- e. All records showing income tax returns and supporting the preparation of income tax returns.
- f. All records showing beneficial ownership of membership interests.

Please feel free to call me to arrange another location if the offices of eTreppid are not convenient.

Very truly yours,

FLYNN & STILLMAN



By: \_\_\_\_\_  
Philip H. Stillman, Esq.

PHS:np





# HALE LANE

ATTORNEYS AT LAW

5441 Kietzke Lane | Second Floor | Reno, Nevada 89511  
Telephone (775) 327-3000 | Facsimile (775) 786-6179  
www.halelane.com

July 27, 2006

## VIA FACSIMILE AND U.S. MAIL

Philip H. Stillman, Esq.  
Flynn & Stillman  
224 Birmingham Dr., Ste. 1A4  
Cardiff, CA 92007

**Re: eTreppid Technologies/Montgomery, Dennis**  
**Our File No. 20801-2**

Dear Mr. Stillman:

Thank you for your letter of July 24, 2006, your two letters of July 26, 2006, and Eric Pulver's letter of July 26, 2006, requesting that eTreppid Technologies, LLC ("eTreppid") provide certain records for review by an accountant on Thursday, July 27, 2006. Pursuant to NRS 86.241 as well as Sections 9.1 and 9.3 of eTreppid's current Amended and Restated Operating Agreement, eTreppid is obliged to maintain and allow members access to (1) a current list of the full name and business address of each member and manager, and (2) a copy of the articles of organization and all amendments thereto, and (3) a copy of the currently effective operating agreement. Montgomery, as a member, may have access to these records at his reasonable request. However, we do not believe that less than five days notice is reasonable under these circumstances.

In addition, given the confidential nature of these documents and the adversarial relationship of the parties, eTreppid will allow Montgomery to copy these documents only once either a protective order is entered or Montgomery specifically agrees, in writing and in a form acceptable to eTreppid, to maintain the confidentiality of these documents.

With regard to the remainder of the documents requested in Mr. Stillman's letter of July 24, 2006, I am not aware of any provision of Nevada's Limited Liability Corporation statute (NRS 86.011 *et. seq.*) which requires eTreppid to allow inspection of these documents. However, we obviously may provide these documents in due course through the discovery process once a protective order is entered to protect the confidentiality of these documents.

## HALE LANE PEEK DENNISON AND HOWARD

LAS VEGAS OFFICE: 3930 Howard Hughes Parkway | Fourth Floor | Las Vegas, Nevada 89169 | Phone (702) 222-2500 | Facsimile (702) 365-6940  
CARSON CITY OFFICE: 777 East William Street | Suite 200 | Carson City, Nevada 89701 | Phone (775) 684-6000 | Facsimile (775) 684-6001

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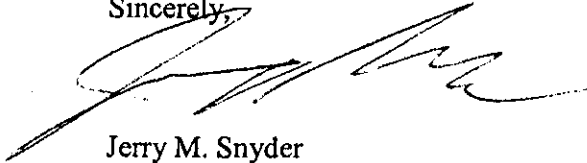
July 26, 2006  
Page 2

**HALE LANE**  
ATTORNEYS AT LAW

Furthermore, just so eTreppid's position is absolutely clear, no representative of either Montgomery or the Montgomery Family Trust will be allowed access to any eTreppid documents today.

Please let me know if you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Jerry M. Snyder", with a stylized, flowing script.

Jerry M. Snyder

JMS/gs  
C: Client

AOB8 (Rev. 1/94) Subpoena in a Civil Case

Issued by the  
UNITED STATES DISTRICT COURT

DISTRICT OF

NEVADA

In the Matter of the Search of:  
12720 Buckhorn Lane, Reno et al.

## SUBPOENA IN A CIVIL CASE

v

Case Number:<sup>1</sup> 3:06-MJ-0023-VPCTO: Custodian of Records  
Etreppid Technologies, LLC  
755 Trademark Drive  
Reno, NV

- ☐ YOU ARE COMMANDED to appear in the United States District court at the place, date, and time specified below to testify in the above case.

PLACE OF TESTIMONY

COURTROOM

DATE AND TIME

- ☐ YOU ARE COMMANDED to appear at the place, date, and time specified below to testify at the taking of a deposition in the above case.

PLACE OF DEPOSITION

DATE AND TIME

- ☒ YOU ARE COMMANDED to produce and permit inspection and copying of the following documents or objects at the place, date, and time specified below (list documents or objects):

SEE ATTACHMENT "A" HERETO

PLACE

Bruce R. Thompson U.S. Courthouse, 400 South Virginia, Reno, NV., Rm 404

DATE AND TIME

7/31/2008 9:00 am

- ☐ YOU ARE COMMANDED to permit inspection of the following premises at the date and time specified below.

PREMISES

DATE AND TIME

Any organization not a party to this suit that is subpoenaed for the taking of a deposition shall designate one or more officers, directors, or managing agents, or other persons who consent to testify on its behalf, and may set forth, for each person designated, the matters on which the person will testify. Federal Rules of Civil Procedure, 30(b)(6).

ISSUING OFFICER'S SIGNATURE AND TITLE (INDICATE IF ATTORNEY FOR PLAINTIFF OR DEFENDANT)

DATE

 Attorney for Dennis Montgomery

7/27/2008

ISSUING OFFICER'S NAME, ADDRESS AND PHONE NUMBER

Philip H. Stillman  
FLYNN & STILLMAN, 224 Birmingham Drive, Suite 1A4, Cardiff, CA 92007  
(888) 235-4279

(See Rule 45, Federal Rules of Civil Procedure, Parts C &amp; D on next page)

<sup>1</sup> If action is pending in district other than district of issuance, state district under case number.

A(088) Rev. 1/94) Subpoena in a Civil Case

## PROOF OF SERVICE

DATE

PLACE

SERVED

SERVED ON (PRINT NAME)

MANNER OF SERVICE

SERVED BY (PRINT NAME)

TITLE

## DECLARATION OF SERVER

I declare under penalty of perjury under the laws of the United States of America that the foregoing information contained in the Proof of Service is true and correct.

Executed on

DATE

SIGNATURE OF SERVER

ADDRESS OF SERVER

## Rule 45, Federal Rules of Civil Procedure, Parts C &amp; D:

## (c) PROTECTION OF PERSONS SUBJECT TO SUBPOENAS.

(1) A party or an attorney responsible for the issuance and service of a subpoena shall take reasonable steps to avoid imposing undue burden or expense on a person subject to that subpoena. The court on behalf of which the subpoena was issued shall enforce this duty and impose upon the party or attorney in breach of this duty an appropriate sanction which may include, but is not limited to, lost earnings and reasonable attorney's fee.

(2) (A) A person commanded to produce and permit inspection and copying of designated books, papers, documents or tangible things, or inspection of premises need not appear in person at the place of production or inspection unless commanded to appear for deposition, hearing or trial.

(B) Subject to paragraph (d) (2) of this rule, a person commanded to produce and permit inspection and copying may, within 14 days after service of subpoena or before the time specified for compliance if such time is less than 14 days after service, serve upon the party or attorney designated in the subpoena written objection to inspection or copying of any or all of the designated materials or of the premises. If objection is made, the party serving the subpoena shall not be entitled to inspect and copy materials or inspect the premises except pursuant to an order of the court by which the subpoena was issued. If objection has been made, the party serving the subpoena may, upon notice to the person commanded to produce, move at any time for an order to compel the production. Such an order to compel production shall protect any person who is not a party or an officer of a party from significant expense resulting from the inspection and copying commanded.

(3) (A) On timely motion, the court by which a subpoena was issued shall quash or modify the subpoena if it

(i) fails to allow reasonable time for compliance,

(ii) requires a person who is not a party or an officer of a party to travel to a place more than 100 miles from the place where that person resides, is employed or regularly transacts business in person, except that, subject to the provisions of clause (c) (3) (B) (iii) of this rule, such a person may in order to attend

trial be commanded to travel from any such place within the state in which the trial is held, or

(iii) requires disclosure of privileged or other protected matter and no exception or waiver applies, or

(iv) subjects a person to undue burden.

## (B) If a subpoena

(i) requires disclosure of a trade secret or other confidential research, development, or commercial information, or

(ii) requires disclosure of an unretained expert's opinion or information not describing specific events or occurrences in dispute and resulting from the expert's study made not at the request of any party, or

(iii) requires a person who is not a party or an officer of a party to incur substantial expense to travel more than 100 miles to attend trial, the court may, to protect a person subject to or affected by the subpoena, quash or modify the subpoena, or, if the party in whose behalf the subpoena is issued shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship and assures that the person to whom the subpoena is addressed will be reasonably compensated, the court may order appearance or production only upon specified conditions.

## (d) DUTIES IN RESPONDING TO SUBPOENA.

(1) A person responding to a subpoena to produce documents shall produce them as they are kept in the usual course of business or shall organize and label them to correspond with the categories in the demand.

(2) When information subject to a subpoena is withheld on a claim that it is privileged or subject to protection as trial preparation materials, the claim shall be made expressly and shall be supported by a description of the nature of the documents, communications, or things not produced that is sufficient to enable the demanding party to contest the claim.

**EXHIBIT A**

1. CD No. 1 referenced in the Sept. 28, 1998 "Contribution Agreement".
2. The original Sept. 28, 1998 "Contribution Agreement" and all schedules, attachments, amendments etc.
3. All "Operating Agreements" of eTreppid and Intrepid from 1998 to the present, and all schedules, attachments, amendments etc.
4. All minutes and records of the Management Committee from 1998 to present.
5. All patent applications submitted by Intrepid or eTreppid, including but not limited to all supporting documents such as a full statement of all of the algorithms for each patent.
6. All reports, records, correspondence, notes, emails, memos etc of all employees, technicians, experts or consultants who have tested, examined or reviewed the currently existing software systems at eTreppid from January 1, 2006 to the present, including but not limited to the most recent report setting forth what "Trade Secrets" are either present or missing within the eTreppid software system.
7. All documents, electronic media, emails, correspondence, information, records, notes, memos and any form of information delivery, delivered to any US Governmental official after December 1, 2005.
8. All documents and electronic media of every nature and description relating to eTreppid or any of its agents, employees, consultants etc and the security clearance of Dennis Montgomery.
9. All inventories of the contents of any safe maintained by eTreppid and/or Warren Trepp.
10. For inspection and copying: all software programs or any portion thereof currently existing at eTreppid which you claim constitute eTreppid's "Trade Secrets".

11. All employee agreements signed by any employee in the company.
12. All revisions and editions, past and present of eTreppid's employee manual.
13. All complaints, correspondence, emails and communications between any government official and any eTreppid employee, agent, principal, officer, Manager or Chairman relating to the criminal complaint filed by Warren Trepp or etreppid against Dennis Montgomery.
14. All of Warren Trepp's emails, correspondence, and communications of every nature and description with Ronald Bath, Paul Hareldsen, James Gibbons, Michael Milken, Douglas Frye, Michael West, and any agent or employee of any Governmental agency.

# AFFIDAVIT OF SERVICE

STATE OF NEVADA

COUNTY OF WASHOE

)  
)  
) : ss  
)  
)

JENNIFER SANDE, being first duly sworn, deposes and says:

That affiant is a citizen of the United States, over 18 years of age, licensed to serve civil process in the State of Nevada under license #322, and not a party to, nor interested in the within action affiant received a SUBPOENA IN A CIVIL CASE on: JULY 27 2006 with instructions to serve:

**ETREPPID TECHNOLOGIES, LLC**  
**CUSTODIAN OF RECORDS**  
**2080 MCCLOUD AVE, RENO, NEVADA**

7/27/06 5:00PM: AFFIANT SPOKE TO JESSE ANDERSON, PROGRAMMER WITH ETREPPID TECHNOLOGIES, WHO STATED THERE WAS NO ONE CURRENTLY AT ADDRESS WHO WAS AUTHORIZED TO ACCEPT LEGAL DOCUMENTS. JESSE ANDERSON PROVIDED AFFIANT WITH CONTACT INFORMATION OF JOE MARTIN 775/690-5026. AFFIANT CALLED PHONE NUMBER AND SPOKE WITH MR. MARTIN WHO INDICATED THE CUSTODIAN OF RECORDS IS CURRENTLY OUT OF TOWN AND ALL LEGAL MATTERS NEED TO BE HANDLED BY JERRY SNIDER ESQ, ATTORNEY REPRESENTING ETREPPID TECHNOLOGIES.

07/27/06: JERRY SNYDER ESQ. STATED HE WOULD NOT ACCEPT THE ABOVE MENTIONED DOCUMENTS ON BEHALF OF ETREPPID TECHNOLOGIES, LLC. WOULD NOT INDICATE REASON WHY.

On the 28<sup>th</sup> day of July 2006 at 11:00AM affiant returned to 2080 McCloud Ave, Reno, NV. and affected service upon Etreppid Technologies, LLC, Custodian of Records by leaving a copy of the Subpoena in a Civil Case with "John Doe" [refused to give name] (WHITE MALE, 28yrs, 5'5", Brn Buzzed hair, Blue Eyes, 150lbs) of the office of Etreppid Technologies, LLC.

Affiant does hereby affirm under penalty of perjury that the assertions of this affidavit are true.

*Jennifer Sande*  
JENNIFER SANDE

SIGNED and SWORN to before me on  
25<sup>TH</sup> DAY OF JULY 2006, by JENNIFER SANDE.

NOTARY PUBLIC

